

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-6907

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

WILLIAM ANTHONY BULLOCK,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. William L. Osteen, District Judge. (CR-00-264, CA-01-1074-1)

Submitted: November 12, 2002

Decided: December 2, 2002

Before LUTTIG, MICHAEL, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

William Anthony Bullock, Appellant Pro Se. Lisa Blue Boggs, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM

William A. Bullock seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his motion filed under 28 U.S.C. § 2255 (2000). Bullock also moves this court to hear his appeal en banc under Fed. R. App. P. 35. An appeal may not be taken to this court from the final order in a proceeding under § 2255 unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). When, as here, a district court dismisses a § 2255 motion on the merits, a certificate of appealability will not issue unless the appellant can make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). We have reviewed the record and conclude for the reasons stated by the district court that Bullock has not made the requisite showing. See United States v. Bullock, Nos. CR-00-264; CA-01-1074-1 (M.D.N.C. May 28, 2002). As no active member of the court has voted to grant hearing en banc, it is denied. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED